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SENATE

REPORT
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LITTLE BIGHORN BATTLEFIELD NATIONAL MONUMENT

OCTOBER 3 (legislative day, SEPTEMBER 19), 1991.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

\together with

MINORITY VIEWS

[To accompany H.R. 848]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 848), Little Bighorn Battlefield National Monument, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purposes of H.R. 848, as ordered reported, are to rename the Custer Battlefield National Monument in Montana as the Little Bighorn Battlefield National Monument and to direct the Secretary of the Interior to design and construct a memorial at the battlefield to honor and recognize the Indians who fought in the Battle of the Little Bighorn.

BACKGROUND AND NEED

Custer Battlefield National Monument, located in the valley of the Little Bighorn River within the Crow Reservation in southern Montana, was the site of the June 1876 battle between the 7th Cavalry of the United States Army and bands of the Sioux, Northern Cheyenne, Arikara, and Arapaho tribes.

The 700 soldiers of the 7th Cavalry were under the direction of Lt. Col. George Armstrong Custer. The Army was defeated by an

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estimated 10,000 Indians encamped in the valley. Over 260 Federal soldiers were killed in the battle.

The site was designated in 1879 as a National Cemetery, to be administered by the Army. In 1881, a monument was placed on the mass gravesite at Last Stand Hill to honor the soldiers, scouts, and civilians attached to the 7th Cavalry who died in the battle. The cemetery was transferred from the Army to the National Park Service in 1940, and the site was redesignated as the Custer Battlefield National Monument in 1946.

H.R. 848 authorizes the erection of a memorial to honor the Indians who fought in the battle and redesignates the park as the Little Bighorn Battlefield National Monument. With the exception of the Custer Battlefield, no battlefields under the administration of the National Park Service are named for individuals.

LEGISLATIVE HISTORY

H.R. 848, sponsored by Congressman Ben Nighthorse Campbell of Colorado, passed the House of Representatives by a voice vote on June 24, 1991. The Subcommittee on Public Lands, National Parks and Forests held a hearing on H.R. 848 on July 25, 1991.

At the business meeting on September 26, 1991, the Committee on Energy and Natural Resources ordered H.R. 848 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 26, 1991, by a majority vote of a quorum present, recommends that the Senate pass H.R. 848 as described herein.

The roll call vote on reporting the measure was 18 yeas, 1 nay, as follows:

Yeas	Nays
Mr. Johnston	Mr. Wallop
Mr. Bumpers*	
Mr. Ford	
Mr. Bradley	
Mr. Wirth	
Mr. Conrad	
Mr. Akaka	
Mr. Fowler*	
Mr. Shelby*	
Mr. Wellstone	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Murkowski*	
Mr. Nickles	
Mr. Burns	
Mr. Craig	
Mr. Seymour	
Mr. Garn*	

* Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Title I pertains to the redesignation of the Custer Battlefield National Monument.

Section 101 provides that on and after the date of enactment of this Act, the Custer Battlefield National Monument shall be known as the Little Bighorn Battlefield National Monument (the national monument).

Section 102 designates the cemetery located within the national monument as the Custer National Cemetery.

Title II pertains to the construction of a memorial at the national monument to honor the Indians who fought in the battle.

Section 201 contains Congressional findings.

Section 202(a) establishes an eleven member Little Bighorn Battlefield National Monument Advisory Committee (the Committee) to advise the Secretary with respect to the memorial authorized by section 203.

Subsection (b) provides that the Secretary is to appoint the eleven members of the Committee, with six members representing Native American tribes who participated in the Battle of the Little Bighorn, or who now reside in the area, two members who are nationally recognized artists, and three members who are knowledgeable in history, historic preservation, and landscape architecture.

Subsection (c) sets forth the quorum and meeting requirements for the Committee.

Subsection (d) states that the Committee is to advise the Secretary to ensure that the memorial constructed pursuant to section 203 is appropriate to the national monument, its resources and landscape, sensitive to the history portrayed and artistically commendable.

Subsection (e) authorizes the Secretary to detail personnel of the National Park Service to provide staff and technical services to the Committee.

Subsection (f) provides that members of the Committee shall serve without compensation, but are allowed per diem expenses.

Subsection (g) states that the reporting requirements of the Federal Advisory Committee Act are waived with respect to the Committee.

Subsection (h) provides that the Committee shall terminate upon dedication of the memorial.

Section 203(a) directs the Secretary to design, construct, and maintain a memorial at the national monument to honor and recognize the Indians who fought in the Battle of the Little Bighorn.

Subsection (b) directs the Secretary, in consultation with the Committee, to select a site for the memorial on the ridge in the national monument which is in the vicinity of the 7th Cavalry monument, as depicted on the referenced map.

Subsection (c) provides that the Secretary, in consultation with the Committee, shall hold a national design competition to select the design for the memorial.

Section 204 authorizes the Secretary to accept and expend donations of funds, property, or services for the purposes of providing for the memorial.

Section 205 authorizes the appropriation of such sums as are necessary to carry out this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 1991.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 848, an act to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the battle of the Little Bighorn. The act was ordered reported by the Senate Committee on Energy and Natural Resources on September 26, 1991. CBO expects that implementation of this legislation would cost the federal government between $300,000 and $1 million, depending on the project design selected and assuming appropriation of the necessary sums. H.R. 848 would not affect direct spending or receipts, so there would be no pay-as-you-go scoring under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

H.R. 848 would redesignate the Custer Battlefield National Monument in Montana as the Little Bighorn Battlefield National Monument. In addition, the act would require the National Park Service (NPS) to construct and maintain a new memorial on monument lands near the 7th Cavalry Monument site. The design of the memorial, which would honor the Indians who fought in the Battle of the Little Bighorn, would be selected by the NPS through a national competition. H.R. 848 would direct the Secretary of the Interior to establish an 11-member committee to advise the NPS on design and construction issues. Finally, the act would authorize the appropriation of whatever sums are necessary for these purposes.

Until a design is selected by the NPS, the costs of constructing and maintaining the new memorial cannot be determined precisely. A preliminary NPS estimate indicated a total project cost of $2.1 million, but CBO believes that total costs are likely to be less. Similar memorials have been built on Park Service lands for less than $1 million (including administrative overhead).

Other spending to carry out H.R. 848, including advisory committee expenses, incidental costs associated with renaming the national monument, and annual expenses to maintain the new memorial are not expected to be significant.

Enactment of H.R. 848 would have no impact on the budgets of state or local governments.

On June 24, 1991, CBO prepared a cost estimate for H.R. 848 as ordered reported by the House Committee on Interior and Insular Affairs on June 19, 1991. The two estimates are identical.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 848. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 848, as ordered reported.

EXECUTIVE COMMUNICATIONS

On July 12, 1991, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 848. These reports had not been received at the time the report on H.R. 848 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF JERRY ROGERS, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the Subcommittee today to present the Administration's views on H.R. 848, a bill to redesignate the Custer Battlefield National Monument in the State of Montana as the Little Bighorn Battlefield National Monument. It would also direct the Secretary to design, construct, and maintain a memorial at the monument to honor and recognize the Indians who fought in the Battle of the Little Bighorn.

Mr. Chairman, we strongly support H.R. 848 and urge its expeditious passage.

If enacted, H.R. 848 would also retain the designation of the national cemetery as the Custer National Cemetery as we had previously recommended in testimony before the Subcommittee on National Parks and Public Lands of the House Committee on Interior and Insular Affairs. Further, the bill would direct the establishment of an advisory committee, the purpose of which would be to advise the Secretary on the appropriateness of the design and construction of the memorial.

The site of the memorial would be selected by the Secretary after consultation with the advisory committee and would be located in the vicinity of the existing 7th Cavalry Monument. The design of

the memorial would result from a national design competition, subject to the approval of the Secretary in consultation with the advisory committee.

The Secretary would be permitted to accept and expend donations of funds, property, or services for the purpose of providing for the memorial. In addition, there would be authorized to be appropriated such sums as are necessary to carry out the provisions of H.R. 848.

Mr. Chairman, the naming of a unit of the National Park System is not generally a major concern, as there are generally accepted conventions in that process. In the case of Custer Battlefield, however, the area was named long before it became a unit of the National Park System and was simply carried over when the area was transferred to us for management by executive order in 1940. Congress changed the name of the Custer Battlefield Cemetery in 1946 to the present Custer Battlefield National Monument.

Of the roughly 30 historic battlefields in the National Park System, Custer Battlefield National Monument is the only one named for an individual rather than a geographic feature or place—the traditional practice. Changing the name to reflect the battle's historic name is the appropriate thing to do.

H.R. 848 proposes to rename the area Little Bighorn Battlefield National Monument. We recommend that the bill be amended to refer to it as Little Bighorn National Battlefield and that the advisory committee name reflect this change. For some time the National Park Service and Congress have moved to standardize nomenclature with respect to battlefields as new battlefield areas have been added to the System and existing areas have been renamed. A plurality of our battlefields now bear this designation, including Big Hole National Battlefield, also in Montana.

Mr. Chairman, the National Park Service strongly supports the establishment of an Indian memorial at Custer Battlefield. In 1881 a monument was placed on the mass grave site at Last Stand Hill to memorialize soldiers, scouts, and civilians attached to the U.S. 7th Cavalry who fell in the Battle of the Little Bighorn. Enactment of H.R. 848 would have the effect of memorializing and recognizing Native American perspectives of that battle. As the 7th Cavalry monument, funded by Federal appropriations in 1881, records commemorative sentiment of earlier generations, so too a memorial constructed with Federal funds honoring the Indian participants is appropriate to record a later generation's recognition.

The National Park Service has already prepared an environmental assessment on the construction of an Indian memorial at Custer Battlefield. That assessment analyzed four alternative locations for the placement of such a memorial. The preferred alternative was to place the Indian memorial in close proximity to the existing 7th Cavalry monument, as provided for in H.R. 848.

Having selected a site through the public involvement process, the next step is the design of the memorial. We believe that the widespread interest in this matter and the need to be sensitive to the Native American perspectives of this issue strongly support the suggestion that we conduct a national design competition. While obviously not being able to accurately predict the project's exact cost, we believe that experience in similar ventures would suggest

an authorization for appropriations of approximately $2 million, including the cost of conducting the competition, design, and construction.

This concludes my prepared statement on H.R. 848. I would be pleased to respond to your questions at this time.

MINORITY VIEWS OF SENATOR WALLOP

The Custer Battlefield National Monument was originally established as a National Cemetery by the Secretary of War on January 29, 1879; it was proclaimed a National Cemetery of Custer's Battlefield Reservation in December, 1886. In 1940, the lands were transferred from the War Department to the Department of the Interior. On March 22, 1946, the name was changed to "Custer Battlefield National Monument" by Act of Congress, and in April, 1926, Congress legislated a boundary change to expand the Monument from approximately one square mile to the 765-acre Battlefield which exists today.

This name change attempts to alter history. There has recently been a term coined called "Politically Correct"—and this is a prime example of political "correctness." Custer Battlefield is called just that because its historical importance lies primarily in the defeat of Custer and the 7th Calvary at the Little Bighorn on June 26, 1876. Custer, in death, became a hero to some and a villain to others. Changing the name to Little Bighorn Battlefield will not re-record history, no matter how "politically correct" we attempt to become. Instead, it does considerable damage to the historical context. The news of Custer's death profoundly affected this nation and altered federal policy towards the Indian tribes. In large measure, the public reaction to the press accounts of "Custer's Last Stand" created the political climate which led to wars rather than negotiation with Indian Tribes. The new federal policy became—"Avenge Custer." Opportunities for peaceful resolution were lost. To a nation which had grown calloused to the slaughter of thousands of young men in a single minute in a war to preserve the Union, Custer's death in a minor fight a decade later ignited a surprising passion of indignation.

Let me make it clear, I am not criticizing the interpretive programs of the National Park Service, which fairly tell both sides of this event, neither am I trying to glorify Custer or the decisions which led him and his troops to the Little Bighorn. The historical symbol of this site, as opposed to any of the numerous other battlefield sites, lies in the significance attached by the country to the news of the death of Custer. I doubt that many Americans could name another casualty, on either side, of this battle.

Throughout history, the image of the Last Stand has far outweighed the actual military significance of the event. Entire wars are remembered for isolated events. In some cases those events may have had military consequences, such as the few days which the defenders of the Alamo bought for Sam Houston, but in many cases, they are far more important for their political consequences. The stand of Leonidas and the Spartans at Thermopylae, the oath of the Horatii, the Charge of the Light Brigade, or Gordon at Khartoum becaue hallmarks to the valor and vainglory of the human

spirit. The defeat of the British at Isandhlwana is not remembered for Viscount Chelmsford, but the Little Bighorn and the Seventh Cavalry are forever linked to Custer.

In respecting the historic importance of the site, we do not glorify the actions which took place there. We do not justify the decisions or the policies. What we acknowledge is that had Custer not died, the Little Bighorn would be but a minor footnote in our history.

The public reaction to the news of his death shaped our political decisions on federal policy. That is the significance we lose when we deny history. Gordon was ordered from Khartoum. Had he followed orders, the war with the Mahdi might have been averted. Had Custer not decided to embark on his own campaign, both Indians and soldiers might have lived and the federal policy towards and relations with Indian Tribes could have been determined by wiser people on both sides.

Custer's Last Stand was a defeat not for Custer, but for both Indian Tribes and the federal government. The military action is final, and no one should diminish the sacrifice made by all who died there. That is why I support the provisions of this legislation which authorize a memorial to the Indian people which is consistent with that erected to the soldiers of the Seventh Cavalry.

As a Nation, we diminish ourselves when we sway with political winds and bury the lessons of history. It should be possible to separate the courage and sacrifice of individuals, both Indian and non-Indian, from the decisions of their leaders and the policies and politics which brought the combatants to that wind-blown plain in southern Montana. The emotional reaction to Custer's Last Stand is a lesson we ignore at our peril. To submerge it by a name change increases that peril. The Committee is yielding to a misdirected emotional clamor. In the long run, all Americans will be the losers.

MALCOLM WALLOP.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 848, as ordered reported.

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